IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6136 OF 2004

Ramakant Chunilal Anjaria through
his Constituted Attorney Y.A.Anjaria .. Petitioner
versus
Smt.Ela wd/o Suresh Joshi .. Respondent

...

Mr.S.R. Page for the petitioner.

CORAM : D.G. KARNIK, J

DATED : 27th August 2004

P.C:-

1. This petition is filed by the original defendant no.2 in a suit filed by the respondent landlord for possession. The original defendant no.1 is a tenant in whose name the rent receipts stand. He has not been joined as party to this petition, though he is a party to the suit.

2. In the suit filed by the respondent for possession the petitioner filed an interim application for restoration of essential services. The respondent resisted the said application contending that the petitioner (defendant no.2) was not the tenant and defendant no.1 alone was the tenant. The Courts below have held that the petitioner defendant no.2 has not proved prima facie that he is the tenant. The defendant no.1 who is the tenant has not challenged that order nor has he been joined as a party to the present Writ Petition. In view of the finding reached by the Court that the petitioner (defendant no.2) is prima facie not the tenant, he is not entitled to any relief.

3. Being an interlocutory order, I am not inclined to interfere. Hence, petition is rejected.

Authenticated copy allowed.

D.G. KARNIK, J